

K.S.A. 44-534a and K.S.A. 44-551 limit the authority of the Appeals Board to review appeals from preliminary hearing orders entered by administrative law judges unless it is alleged that the administrative law judge exceeded his or her jurisdiction in granting or denying the relief requested. Jurisdictional issues, which may be considered by the Board, include: (1) Whether the employee suffered an accidental injury; (2) whether the injury arose out of and in the course of the employee's employment; (3) whether notice is given or claim timely made; and (4) whether certain defenses apply. See K.S.A. 44-534a.

In this instance, the Administrative Law Judge granted claimant's request for temporary total compensation. K.S.A. 44-534a(a)(2) grants the Administrative Law Judge the authority to grant or deny temporary total disability compensation from preliminary hearings, pending a full hearing on the claim.

The Appeals Board finds that the Administrative Law Judge did not exceed his jurisdiction in determining claimant's entitlement to temporary total disability compensation, regardless of whether that finding was a correct finding or not.

Jurisdiction is defined as the power of a court to hear and decide a matter. The test of jurisdiction is not a correct decision but a right to enter upon inquiry and make a decision. Jurisdiction is not limited to the power to decide a case rightly, but includes the power to decide it wrongly. Allen v. Craig, 1 Kan. App. 2d 301, 564 P.2d 552, *rev. denied* 221 Kan. 757 (1977); see also Taber v. Taber, 213 Kan. 453, 516 P.2d 987 (1973), and Provance v. Shawnee Mission U.S.D. No. 512, 235 Kan. 927, 683 P.2d 902 (1984).

The Board, therefore, concludes that the preliminary hearing Order granting claimant temporary total disability benefits is within the authority and jurisdiction of the Administrative Law Judge and the Board has no jurisdiction to review that issue at this time.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order of Administrative Law Judge Brad E. Avery, dated July 27, 2001, remains in full force and effect and the appeal of the respondent in this matter is dismissed.

IT IS SO ORDERED.

Dated this ____ day of October, 2001.

BOARD MEMBER

c: George H. Pearson, III, Attorney for Claimant
Ronald J. Laskowski, Attorney for Respondent
Brad E. Avery, Administrative Law Judge
Philip S. Harness, Director